

REMARKS

Claims 14-34 are pending in the present application. The Examiner has required restriction among:

Group I: claims 14-24 and 32, directed to a mutant luciferase resistant to surfactant;

Group II: claims 25-27, directed to a nucleic acid encoding a mutant luciferase, a vector and a cell comprising said nucleic acid;

Group III: claims 28-31, directed to a method for making a mutant luciferase by mutating an encoding nucleic acid; and

Group IV: claims 33 and 34, directed to a method of use of the mutant luciferase.

Applicants elect the claims of Group I, claims 14-24 and 32 for examination in the present application.

This election is made with traverse. In particular, for restriction to be proper, there must be undue burden of examination imposed by examination of the claims in the application. Applicants note that, in this instance, all of the claims are classified in class 435. Furthermore, Applicant submit that all of the claims include a particular technical feature, i.e. mutation of a luciferase such that the enzyme maintains activity in the presence of a surfactant, such that search of this feature would reveal all relevant prior art. Thus, no undue burden of search is imposed by search of all of the claims of the present application.

Applicants have noted the Examiner's willingness to rejoin process claims, i.e. claims of Groups III and/or IV, to the composition claims of Group I, if such composition claims are found allowable and the process claims are amended or otherwise are commensurate in scope with the allowed composition claims.

The Examiner has not stated a request for an election of species, and so no such election is made.

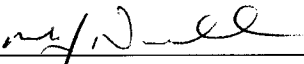
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mark J. Nuell, Registration No 36,623 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

- ☐ Attached is a Petition for Extension of Time.
- ☐ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: September 7, 2006

Respectfully submitted,

By 
Mark J. Nuell
Registration No.: 36,623
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant